

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Office of Refugee Resettlement

Notice of Proposed FY 2006 Formula Allocations to States for Refugee Social Services.

AGENCY: Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS)

ACTION: Notice of proposed FY 2006 formula allocations to States for refugee social services.

FUNDING OPPORTUNITY NUMBER: HHS-2006-ACF-ORR-RS-0115

CFDA Number: 93.566 - Refugee Assistance – State Administered Programs

SUMMARY: This notice establishes the proposed Fiscal Year (FY) 2006 formula allocations to States for refugee social services under the Refugee Resettlement Program (RRP). Allocations to States in the proposed notice reflect a one-time adjustment in the use of a two-year new arrival population base instead of a three-year base in the allocations formula. We have made this change at the request of the majority of States to address the impact of very low refugee arrival numbers in FY 2003 as a consequence of the events of September 11, 2001. Refer to the discussion of FY 2006 allocations in Section II.

APPLICATION: A State must have an approved State Plan, developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in order to use formula social services funds described in this proposed notice. A State must indicate in its State Plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants, as well as refugees. In order to use formula social services funds for Cuban and Haitian entrants, a State must have an approved Cuban/Haitian Entrant Program (CHEP) in its State Plan.

FOR FURTHER INFORMATION CONTACT: Kathy Do, Division of Budget, Policy, and Data Analysis (BPDA), telephone: (202) 401-4579, e-mail: kdo@acf.hhs.gov.

SUPPLEMENTARY INFORMATION :

I. **Amounts for Allocation**

The Office of Refugee Resettlement (ORR) has (after rescission) \$154,004,400 in Fiscal Year (FY) 2006 refugee social service funds as part of the FY 2006 appropriation under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006 , (Public Law (P.L.)109-149). This amount reflects a rescission of one percent applied across the board to all line items.

The FY 2006 Conference Report (H. Rpt. 109-300) reads as follows with respect to Refugee and Entrant Assistance:

"The conference agreement includes \$575,579,000 for the refugee and entrant assistance programs rather than \$560,919,000 as proposed by the House and \$571,140,000 as proposed by the Senate. The conference agreement does not include funds for any of these activities through emergency funding. The Senate bill provided \$19,100,000 within the total as emergency funding; the House bill did not include emergency funding for these activities."

"The conference agreement provides \$155,560,000 for social services, rather than \$160,000,000 as proposed in the House and \$151,121,000 as proposed by the Senate. Within the funds provided, the conference agreement includes \$19,000,000 as outlined in the House report. The Senate did not include similar language. The conferees intend that funds provided above the request for social services shall be used for refugee school impact grants and for additional assistance in resettling and meeting the needs of the Hmong refugees expected to arrive during 2006 and 2007 or for other urgent needs."

The House Committee Report (H. Rpt. 109-143), states under Social Services:

"The Committee provides \$160,000,000 for social services. This is \$8,879,000 more than the budget request and \$4,888,000 less than the fiscal year 2005 comparable level. Funds are distributed by formula as well as through the discretionary grant making process for special projects. The Committee intends that funds provided above the request shall be used for Refugee School Impact Grants and for additional assistance in resettling and meeting the needs of the Hmong refugees expected to arrive during 2006 and 2007.

Within the funds provided, the Committee has included \$19,000,000 for support to communities with large

concentrations of Cuban and Haitian entrants of varying ages whose cultural differences make assimilation especially difficult, justifying a more intense level and longer duration of Federal assistance.”

ORR intends to allocate or award the \$154,004,400 appropriated (after the one percent rescission) for FY 2006 social services as follows:

- \$79,408,294 for the two-year population (FY 2004 and 2005) formula, as set forth in this notice, for the purpose of providing employment services and other needed services to refugees.
- \$4,000,000 for the two-year new arrivals formula, as a set-aside for additional assistance in resettling and meeting the needs of unanticipated refugee arrivals.
- \$19,000,000 for communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals. These funds will be awarded under a new separate announcement.
- \$15,000,000 for continuation of awards for educational support to schools with a significant proportion of refugee children, consistent with previous support to schools greatly affected by large concentrations of refugees.
- \$2,600,000 for continuation of awards for services to the elderly.
- \$11,703,130 for discretionary awards for continuation of awards made in prior years.
- \$22,292,976 for new social service discretionary grants under new and prior year standing competitive grant announcements issued separately from this proposed notice.

II. Refugee Social Service Funds

The FY 2006 population figures used for the proposed formula social services allocation include refugees, Amerasians from Viet Nam, Cuban/Haitian entrants, Havana parolees, asylees, and victims of severe forms of trafficking for FY 2004 and 2005. These population figures will be adjusted in the final allocation to reflect more accurate information on arrivals, secondary

migration, asylees, and entrant data submitted by States. (See *Section V*, Basis of Population Estimates).

The ORR Director allocates \$79,408,294 to States on the basis of each State's proportion of the national population of refugees who arrived in the U.S. during the most recent two-year period before the beginning of FY 2006 (including a floor amount for States that have small refugee populations). Of the amount, approximately \$6 million is to be awarded to Wilson/Fish Alternative Projects providing social services.

Section 412(c)(1)(B) of the Immigration and Nationality Act (INA) states that "funds available for a fiscal year for grants and contracts [for social services] . . . shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year."

Congress added section 412(b)(1)(C) to the INA with the passage of the Refugee Assistance Extension Act of 1986, P.L. 99-605. At the time, Congress had rejected an Administration proposal to allocate social service funding based on the **anticipated** number of refugee arrivals. H. Rpt. 99-132, 99th Congress, (1985). Congress noted that funding levels would be inadequate, less than half of the needed funding, if they were based solely on anticipated arrivals, and it stressed its belief that social services were a fundamental element through which refugees can avoid cash or medical assistance dependency. *Id.* Congress stated that funds should be based on the **total refugee population**. *Id.* At the same time, it recognized that distributing funds based on refugee populations regardless of the date of entry was similarly inappropriate. S. Rpt. 99-154, 99th Congress, (1985). Therefore, Congress recommended that budgeting be based on the past three fiscal years, which would correspond with the then three-year eligibility for cash and medical assistance. *Id.*

Congress provided some flexibility to ORR with the language of section 412(b)(1)(C) in that it did not prescribe specifically 36 months, but allowed funding to be based on the total number of refugees who arrived in the United States "**not more than 36** months before the beginning" of the fiscal year. Noting this flexibility and Congress' concern that social services be properly

funded to avoid refugee dependency on cash and medical assistance, ORR has adjusted the basis for allocation of social services for FY 2006 to the total number of refugees who arrived in the U.S. (including children and adults) **not more than 24 months** (i.e., during FY 2004 and FY 2005) before the beginning of FY 2006. This change in the formula eliminates the effect that extremely low FY 2003 refugee arrival numbers would have on the allocations. This formula adaptation represents a one-time adjustment necessary to ensure that States receive allocations at a sufficient level to fund necessary social services.

The domestic refugee resettlement program continues to recover from the events of September 11, 2001. Immediately following September 11, all refugee resettlement was halted until additional security procedures were implemented overseas. As a result of the slow implementation of new security procedures, the refugee arrivals for FY 2002 and FY 2003 were much lower than prior years. In FY 2001, ORR resettled 68,000 refugees. During FY 2002, ORR resettled 27,113 refugees in the U.S. In FY 2003, only 28,422 refugees were resettled. During FY2004, refugee arrivals increased to 52,868, and in FY 2005, refugee arrivals reached 53,813. While refugee arrivals are increasing, they do not yet approach the pre-September 11, 2001, arrival numbers. However, ORR expects to provide benefits and services to 70,000 refugee arrivals in FY 2006. FY 2003 represents the last year of low arrival numbers that would be counted if a three-year arrival population were used as the basis for FY 2006 allocations.

In FY 2005, ORR based the social services formula allocations on the most recent three-year arrivals (FY 2002, 2003 and 2004). The inclusion of two fiscal years with very low refugee arrivals (FY 2002 and FY 2003) in the base population for allocations of social services formula funding resulted in a reduction in social services formula allocations to 30 States.

At the ORR National Consultation in November 2005, many States indicated to ORR that their abilities to remain in the refugee resettlement program were doubtful without additional funding for social services. Since FY 2003 represents the last remaining fiscal year in which the events of September 11 adversely affected refugee arrivals, ORR, in consultation with the States, explored ways to adjust the formula so that the FY 2006 formula allocations would not consider FY 2003 arrivals.

ORR conducted a vote of the 49 States participating in the refugee resettlement program regarding their preferences for allocation methodologies for FY 2006 social service funding. The majority of the States voted to use: (1) a two-year population base (FY 2004 and 2005), (2) State-reported asylee data instead of ORR-generated asylee data, and (3) a 200-weight in the formula for refugee arrivals, as explained below in this section for refugees.

As in FY 2005, States' preference for reporting their own asylee data to ORR is continued. A format and instructions were sent to all States on February 28, 2006, with a deadline for submission to ORR of State-reported asylee data by April 17, 2006, for the proposed notice. States also received a format and instructions for submitting entrant data to ORR. States that are receiving Cuban or Haitian entrants as border crossers or through ports of entry other than Miami, Florida may also submit data to ORR by April 17, 2006, for the proposed notice regarding entrants served in their programs. Data received by ORR will be matched against ORR's Refugee Arrivals Data System (RADS). ORR will use the results of the match in the final allocations. The final notice will reflect these results.

"As established in the FY 1992 social services notice published in the *Federal Register* on August 29, 1991, section I, "Allocation Amounts" (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than \$100,000, then -

(1) a base amount of \$75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) for a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) a floor has been calculated consisting of \$50,000 plus the regular per capita allocation for refugees above 50 up to a total of \$100,000 (in other words, the maximum under the floor formula is \$100,000); (b) if this calculation has yielded less than \$75,000, a base amount of \$75,000 is provided for the State."

For FY 2006, all States will receive a weight of 200 applied to refugee arrivals (a credit of 200 arrivals plus the State's number of refugee arrivals, as discussed below). The normal allocation formula provides a floor of \$75,000 for several States with very

small annual arrivals. This provides the minimal structure for the State to provide employment and other social services necessary for successful resettlement in American communities. These States' current annual allocations are higher than the \$75,000 but are still too small to provide much more than minimal services or create a sustainable administrative structure to meet currently unmet needs.

ORR explored a number of adjustments to the regular formula. The simplest formula adjustment that provides small-to-medium States with sufficient additional funds and an economy of scale is to credit each State with a prescribed number of additional arrivals. While States with large numbers of arrivals are credited with the same number of additional arrivals as States with small numbers of arrivals, their overall proportion of the arrival totals declines slightly. ORR polled the States as to whether they favored this adjustment to the formula. About three-quarters of the respondents favored extra credit of arrivals, with two-thirds of those favoring a credit of 200 arrivals. Accordingly, ORR has credited 200 additional arrivals to every State. As a consequence, the proportion of the total allocation declined about one percent for the ten States with the most arrivals.

Population to be Served and Allowable Services

Eligibility for refugee social services includes persons who meet all requirements of 45 CFR 400.43 (see Footnote 1 on page 1 for service populations). In addition, persons granted asylum are eligible for refugee benefits and services from the date that asylum was granted (See ORR State Letter No. 00-12, effective June 15, 2000, as clarified by ORR State Letter No. 00-15, August 3, 2000). Victims of a severe form of trafficking who have received a certification or eligibility letter from ORR and certain other specified family members are eligible from the date on the certification letter (see ORR State Letter No. 01-13, May 3, 2001, as modified by ORR State Letter No. 02-01, January 4, 2002, and ORR State Letter No.04-12, June 18, 2004).

Services to refugees must be provided in accordance with the rules of 45 CFR Part 400 Subpart I- Refugee Social Services. Although the FY 2006 allocation formula is based on the two-year refugee population, States may provide services to refugees who have been in the country up to 60 months (five years), with the exception of referral and interpreter services and citizenship

and naturalization preparation services for which there is no time limitation (45 CFR 400.152(b)).

Under waiver authority at 45 CFR 400.300, the Director of ORR may issue a waiver of the limitation on eligibility for social services contained in 45 CFR 400.152(b). There is a national waiver of this provision in effect for FY 2006 (refer to ORR State Letter #05-23).

A State must have an approved State Plan, developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in order to use formula social services funds described in this proposed notice. A State must indicate in its refugee program State Plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants, as well as refugees. In order to use formula social services funds for Cuban and Haitian entrants, a State must have a CHEP in its approved State Plan.

Allowable social services are those indicated in 45 CFR 400.154 and 400.155. The Director of ORR must approve any additional service not included in these sections that the State may wish to provide, as required under 45 CFR 400.155(h).

Service Priorities

In accordance with 45 CFR 400.147, States are required to provide social services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) all newly arriving refugees during their first year in the U.S. who apply for services; (b) refugees who are receiving cash assistance; (c) unemployed refugees who are not receiving cash assistance; and (d) employed refugees in need of services to retain employment or to attain economic independence. In order for refugees to leave Temporary Assistance for Needy Families (TANF) quickly, States should, to the extent possible, ensure that all newly arriving refugees receive refugee-specific services designed to address the employment barriers that refugees typically face.

ORR encourages States to re-examine the range of services they currently offer to refugees. Those States that have had success in helping refugees achieve early employment may find it to be a good time to expand beyond the provision of basic employment services and address the broader needs that refugees have in order to enhance their ability to maintain financial security and

to successfully integrate into the community. Other States may need to reassess the delivery of employment services in light of local economic conditions and develop new strategies to better serve the newly arriving refugee groups.

States should also be aware that ORR will make formula social services funds available to pay for social services provided to refugees who participate in Wilson/Fish projects (see Footnote 4, Table 1), which can be administered by public or private non-profit agencies, including refugee, faith-based and community organizations. Section 412(e)(7)(A) of the INA provides that:

"The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers."

This provision is generally known as the Wilson/Fish Amendment. The Department of Health and Human Services (HHS) has already issued a separate standing notice with respect to applications for such projects. The notice can be found in the *Federal Register* [Volume 69, FR 65, pages 17692-17700, (April 5, 2004)].

States are encouraged to consider eligible sub-recipients for formula social service funds, including public or private non-profit agencies, such as refugee, faith-based, and community organizations.

III. Comments and Response

This section is reserved for comments received in response to the Proposed Notice to States of FY 2006 Funds for Refugee Social Services. Written comments are due at ORR by July 17, 2006.

IV. Allocation Formulas

Of the funds available for FY 2006 for social services, ORR proposes to allocate \$79,408,294 to the States in accordance with the formula specified in A. below:

A. A State's allowable formula allocation is calculated as follows:

1. The total amount of funds determined by the ORR Director to be available for this purpose; divided by
2. The total number of refugees, Cuban/Haitian entrants, parolees, and Amerasians from Viet Nam, as shown by the ORR RADS for FY 2004 and 2005, and victims of severe forms of trafficking, as shown by the certification and eligibility letters issued by ORR, who arrived in the United States not more than **two** years prior to the beginning of the fiscal year for which the funds are appropriated. This total, in the final notice, will also include the total number of asylees who have been served by a State through its refugee resettlement or social services system in FY 2004 and 2005. The resulting per capita amount is multiplied by
3. The number of persons in item 2, above, in the State as of October 1, 2005, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

In addition, ORR will allocate \$4,000,000 under the two-year arrivals formula, as a set-aside for additional assistance in resettling and meeting the needs of the unanticipated refugee arrivals. Allowable services are listed in 45 CFR 400.154 and 400.155.

Basis of Population Estimates

The population figures used in the proposed allocation in FY 2006 for the formula social service funds are based on data on refugee arrivals for FY 2004 and 2005 from the ORR RADS, adjusted as of September 30, 2005, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Vietnam, Cuban and Haitian entrants, Havana parolees, asylees, and trafficking victims. ORR takes the data on trafficking victims from the total number of trafficking victims' certification and eligibility letters it issues. In the final notice,

asylee and entrant data reported by States as receiving services and matched by ORR for FY 2004 and 2005 will be included.

The data on secondary migration will be based on data submitted by all participating States on Form ORR-11 on refugee and entrant secondary migrants who have resided in the U.S. for 24 months or less, as of September 30, 2005. The total secondary migration report by each State was due to ORR at the end of January 2006. Asylees and victims of trafficking data are not captured on the Form ORR-11. Therefore, in response to this proposed notice, ORR will use States' submission of data on asylees to ensure current information for allocation purposes. ORR will include the number of certification and eligibility letters issued to trafficking victims during FY 2004 and FY 2005 in the allocations. Any State serving family members of trafficking victims who have been granted T-visas should contact Loren Bussert at lbussert@acf.hhs.gov.

For the proposed allocation, the total migration data from Form ORR-11 are summed, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure is applied to the State's total arrival figure, resulting in a revised ORR population figure. ORR calculations are developed separately for refugees and entrants and then combined into a total two-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures. Havana parolees (HP's) are enumerated in a separate column in Table 1 because they are tabulated separately from other entrants. HP arrivals for all States are based on actual data.

Table 1 (attached) is the Proposed FY 2006 Social Services Formula Notice. Table 1 shows the estimated two-year (FY 2004 and 2005) refugee, entrant, asylee, parolee, trafficking victim populations of States participating in the Refugee Resettlement Program and proposed social service formula allocations for FY 2006 (adjusted for secondary migration based on the Form ORR-11). Refugees (column 1), Entrants (column 2), Asylees (column 3), Havana Parolees (column 4), Trafficking Victims (column 5), Total Population, (column 6), Proposed Formula Amount (column 7), Proposed Allocation (column 8), Hmong Arrivals (column 9), Hmong Set-Aside (column 10), and Total Proposed Allocations (column 11).

V. Proposed Allocation Amounts

Funding subsequent to the publication of this proposed notice, and thereafter the final notice, will be contingent upon the submission and approval of a State annual services plan that is developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in the ORR regulations.

VI. Paperwork Reduction Act of 1995 (P.L. 104-13)

Instructions for Refugee State-of-Origin Report (ORR-11_ is approved under OMB control number 0970-0043).

Date: _____

Martha E. Newton

Director

Office of Refugee Resettlement

Eligibility for refugee social services include refugees, asylees, Cuban and Haitian entrants, certain Amerasians from Viet Nam who are admitted to the U.S. as immigrants, certain Amerasians from Viet Nam who are U.S. citizens, and victims of a severe form of trafficking who receive certification or eligibility letters from ORR, and certain other specified family members. See 45 CFR 400.43 and ORR State Letter #01-13 on the Trafficking Victims Protection Act, dated May 3, 2001 , as modified by ORR State Letter # 02-01, January 4, 2002, and ORR State Letter # 04-12, June 18, 2004.

The term "refugee," used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services.

[Proposed FY 2006 Social Services Formula Notice \(Table 1\)](#)